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) ORDER  
) RULING ON  
) MOTION FOR  
) PROTECTIVE  
) ORDER AND  
) MOTION TO  
) COMPEL

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moves that the SCCTA's discovery be stricken and that the Commission issue its protective order barring the SCCTA from conducting any discovery until such time as it responds to the requests of Southern Bell, which, according to Southern Bell, are now almost thirty (30) days past due.

In response, the SCCTA filed a Return to Southern Bell's Notice of Motion and Motion for Protective Order and Motion to Compel. The SCCTA objects to the Motion for Protective Order and the Motion to Compel and requests that the same be denied. The SCCTA points out several factors in support of its position.

The Commission has reviewed the Motion filed by Southern Bell, as well as the return filed by the SCCTA. Additionally, the Commission has reviewed the interrogatories of Southern Bell and the responses of the SCCTA.

The Commission notes that the SCCTA served its initial responses to Southern Bell's first and second set of interrogatories within fifteen (15) days of receipt thereof. However, even the SCCTA admits that these responses were incomplete. The SCCTA did indicate that it would provide supplemental responses to those questions to which it did not object. Supplemental responses to Southern Bell's first set of interrogatories were served by the SCCTA on December 17, 1990. These supplemental responses address questions 1-1 and 1-8, and provided Southern Bell a list of SCCTA's member cable companies and its officers and directors. The second supplemental responses to Southern Bell's first set of interrogatories was served on

December 30, 1990, by the SCCTA. This supplemental response addressed question 1-2. The SCCTA then telecopied responses to Southern Bell's interrogatory 2-1 on January 8, 1991. A formal pleading was prepared and served on January 11, 1991, attaching a copy of SCCTA's work sheet responding to interrogatory 2-1. As of the time the SCCTA filed its return to Southern Bell's Motion, which was January 14, 1991, the SCCTA contends that Southern Bell's first and second set of interrogatories had been fully responded to, except where objections had been made. The SCCTA noted that in its Return that it is in the process of updating a response in the first set of interrogatories relating to the payment of witness fees for Dr. Legler.

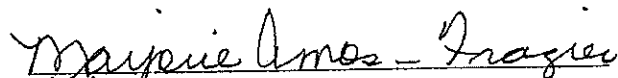
The SCCTA alleges that the facts and circumstances of this case render the application of Rule 37 of the South Carolina Rules of Civil Procedure unnecessary and unwarranted. The SCCTA contends that the time delays in responding to some of Southern Bell's discovery requests have not disadvantaged nor prejudiced Southern Bell in any manner. The SCCTA contends that there has been no abuse of discovery and no effort to avoid legitimate discovery.

In ruling on Southern Bell's Motion for Protective Order and Motion to Compel, the Commission is satisfied that as of the time of its ruling on this matter, that the discovery requests had been complied with by the SCCTA. What troubles the Commission, however, is the inordinate amount of time required by the SCCTA to respond to the interrogatories of Southern Bell. While the Commission notes that the SCCTA did initially respond within fifteen (15) days


of the request, the supplemental responses were not forthcoming for a long period of time. Many of the supplemental responses were not filed until after Southern Bell filed its Motion for Protective Order and Motion to Compel. When the Commission allowed the intervention of the SCCTA it was concerned that the many members of the Association could create a problem in responding to discovery requests. The Commission is still concerned about this and would caution the SCCTA that any continued delay of discovery could result in the dismissal of its intervention. The Commission is not aware of any prejudice or any abuse of discovery in this matter, and so it will deny Southern Bell's request for a Motion for Protective Order and Motion to Compel as requested by Southern Bell. However, in recognition of the delay of SCCTA in responding to the discovery request of Southern Bell, the Commission will allow Southern Bell an additional fifteen (15) days from January 15, 1991, to respond to the discovery request of the SCCTA.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)